

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

EMMET W. CALDWELL

Plaintiff, pro se,

v.

CHRISTY DEATON; RACHEL EMERSON,
DEBBIE BATCHELOR (RBC MANAGERS);
RBC BANK USA (RBC); JOHN DOES;
JUAN DOES (being fictitious unknown
members of Black & Mexican drug gangs
working for corrupt Durham County police
and sheriffs, et al.); and U.S. POSTAL
SERVICE,

Defendants.

1:10CV223

ORDER ADOPTING RECOMMENDATION

The recommendation of the United States Magistrate Judge was filed with the Court in accordance with 28 U.S.C. § 636(b) and, on April 7, 2010, was served on the parties in this action. Plaintiff filed an objection to the recommendation and a proposed amended complaint. [Dock. ## 5, 6].

The Court has reviewed the Magistrate Judge's recommendation and has made a de novo determination which is in accordance with the Magistrate Judge's report. The Court adopts the Magistrate Judge's recommendation. Plaintiff's proposed amended complaint remains subject to a review of frivolity and fails to add any new or different information which would alter the Court's determination that the action

is frivolous; thus, amendment of the complaint would be futile and is not allowed. 28 U.S.C. § 1915(e)(2); see also Moniz v. Hines, 92 F. App'x 208, 212 (6th Cir. 2004) (“[A] district court may not permit a plaintiff to amend his complaint to defeat dismissal under 28 U.S.C. §§ 1915(e)(2)”).

IT IS THEREFORE ORDERED that Plaintiff's case is **DISMISSED** as frivolous pursuant to 28 U.S.C. § 1915(e)(2) and Plaintiff's motion to amend his complaint [Dock. # 5] is DENIED.

This the 27th day of February, 2012.

/s/ N. Carlton Tilley, Jr.
Senior United States District Judge